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CHIMAYO WATER SUPPLY SYSTEM AND ESPANOLA FILTRATION FACILITY ACT OF 2004

AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 2511]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2511) to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chimayo Water Supply System and Espanola Filtration Facility Act of 2004”.

TITLE I—CHIMAYO WATER SUPPLY SYSTEM

SEC. 101. DEFINITIONS.

In this title:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) STUDY AREA.—The term “study area” means the Santa Cruz River Valley in the eastern margin of the Espanola Basin.
- (3) SYSTEM.—The term “system” means a water supply system described in section 102(a).
- (4) TOWN.—The term “Town” means the town of Chimayo, New Mexico, located in Rio Arriba County and Santa Fe County, New Mexico.

SEC. 102. CHIMAYO WATER SUPPLY SYSTEM FEASIBILITY STUDY.

(a) **IN GENERAL.**—The Secretary, in cooperation with appropriate State and local authorities, shall conduct a study to determine the feasibility of constructing a water supply system for the Town in the study area that includes potable water transmission lines, pump stations, and storage reservoirs.

(b) **SCOPE OF STUDY.**—In conducting the study under subsection (a), the Secretary shall—

(1) consider operating the system in connection with the Espanola Water Filtration Facility;

(2) consider various options for supplying water to the Town, including connection to a regional water source, local sources, sources distributed throughout the Town, and sources located on adjacent Bureau of Land Management land;

(3) consider reusing or recycling water from local or regional sources;

(4) consider using alternative water supplies such as surface water, brackish water, nonpotable water, or deep aquifer groundwater; and

(5) determine the total lifecycle costs of the system, including—

(A) long-term operation, maintenance, replacement, and treatment costs of the system; and

(B) management costs (including personnel costs).

(c) **DEADLINE FOR STUDY.**—As soon as practicable, but not later than 3 years after the date of enactment of this Act, the Secretary shall complete the study.

(d) **COST SHARING.**—The Federal share of the cost of the study shall be 75 percent.

(e) **COORDINATION.**—The Secretary shall coordinate activities of the Bureau of Reclamation, the Bureau of Land Management, and the United States Geological Survey in the furtherance of the study, including—

(1) accessing any Bureau of Land Management land adjacent to the study area that is necessary to carry out this section; and

(2) the drilling of any exploratory wells on Bureau of Land Management land adjacent to the study area that are necessary to determine water resources available for the Town.

(f) **REPORT.**—The Secretary shall submit to Congress a report on the results of the feasibility study not later than the earlier of—

(1) the date that is 1 year after the date of completion of the feasibility study; or

(2) the date that is 4 years after the date of enactment of this Act.

SEC. 103. EMERGENCY WATER SUPPLY DEVELOPMENT ASSISTANCE.

(a) **IN GENERAL.**—The Secretary may enter into contracts with water authorities in the study area to provide emergency water supply development assistance to any eligible person or entity, as the Secretary determines to be appropriate.

(b) **ELIGIBLE ACTIVITIES.**—The Secretary may provide assistance under subsection (a) for—

(1) hauling water;

(2) the installation of water purification technology at the community wells or individual point-of-use;

(3) the drilling of wells;

(4) the installation of pump stations and storage reservoirs;

(5) the installation of transmission and distribution pipelines to bring water to individual residential service connections;

(6) the engineering, design, and installation of an emergency water supply system; and

(7) any other eligible activity, as the Secretary determines to be appropriate.

(c) **COST SHARING.**—The Federal share of the cost of any activity under this section shall be 75 percent.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated—

(1) to carry out section 102, \$2,000,000 for the period of fiscal years 2005 through 2008; and

(2) to carry out section 103, \$3,000,000 for the period of fiscal years 2005 through 2010.

(b) **LIMITATION.**—Amounts made available under subsection (a)(1) shall not be available for the construction of water infrastructure for the system.

TITLE II—ESPANOLA WATER FILTRATION FACILITY

SEC. 201. DEFINITIONS.

In this title:

- (1) COMPONENT.—The term “component” means a water delivery infrastructure development described in section 202(b).
- (2) FACILITY.—The term “facility” means the Espanola water filtration facility described in section 202(a).
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 202. ESPANOLA WATER FILTRATION FACILITY.

(a) IN GENERAL.—The Secretary shall provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility consisting of projects—

(1) to divert and fully use imported water to meet future demands in the greater Espanola, New Mexico region, including construction of—

- (A) presedimentation basins for removal of sediments;
- (B) an influent pump station to supply water into treatment facilities;
- (C) a pretreatment facility;
- (D) filtration facilities;
- (E) finished water storage facilities;
- (F) a finished water booster pump station;
- (G) sludge dewatering facilities; and
- (H) potable water transmission lines to connect into the water distribution facilities of the city of Espanola, New Mexico; and

(2) to use reclaimed water to enhance groundwater resources and surface water supplies.

(b) PARTICIPATION.—The Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos of New Mexico and the non-Federal sponsors of the facility for the study, planning, design, and construction of a water delivery infrastructure development for the Santa Clara and San Juan Pueblos as a component of the facility.

(c) COST SHARING.—The Federal share of the total cost of the facility and the component shall not exceed 25 percent.

(d) LIMITATION ON USE OF FUNDS.—Funds provided by the Secretary may not be used for the operation or maintenance of the facility or the component.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the construction of the facility \$3,000,000 for the period of fiscal years 2005 through 2009.

PURPOSE OF THE MEASURE

The purpose of S. 2511 is to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

BACKGROUND AND NEED

The 3,000 citizens of the unincorporated community of Chimayo, New Mexico rely on individual wells for their potable water and deteriorated septic systems to dispose of waste water. The condition of the water and sewer infrastructure in the basin results in 75 percent of well samples taken having significant contamination of both total coliform and fecal coliform and high levels of total dissolved solids. Because of the unreliability of the well water, some residents drink free-flowing water from irrigation ditches, which also contain high levels of fecal coliform. In 2001, the region was declared an emergency area and received potable water from National Guard tanker trucks. Chimayo is still an emergency area.

The city of Espanola's current water system produces approximately 1,000 gallons per minute less than is needed to provide for its current population. This production shortfall has resulted in inadequate water pressure throughout the city. The chronic lack of pressure is prevalent especially in the portion of the city where the Espanola Hospital is located. The city has twice declared a state of emergency due to lack of adequate water and water pressure. As a result, the city has called on the National Guard to supply water to the hospital. Although the city of Espanola has been allocated 1,000 acre feet per annum of San-Juan Chama Project water by the Bureau of Reclamation, the city is unable to divert this water due to inadequate water infrastructure. Instead of making use of its available San Juan Chama water, the city has been depleting its limited groundwater supplies.

LEGISLATIVE HISTORY

S. 2511 was introduced by Senator Domenici on June 8, 2004 and referred to the Committee on Energy and Natural Resources. Senator Bingaman is an original cosponsor. The Subcommittee on Water and Power held a hearing on S. 2511 on June 17, 2004. The Committee on Energy and Natural Resources ordered S. 2511, as amended, favorably reported on July 14, 2004.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business meeting on July 14, 2004, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 2511, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2511, the Committee adopted an amendment in the nature of a substitute. The substitute amendment addresses concerns raised during the Subcommittee hearing and in written submissions.

The change directs the Secretary of the Interior to evaluate water resources on Bureau of Land Management land adjacent to Chimayo.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Chimayo Water Supply System and Espanola Filtration Facility Act of 2004."

Section 101 defines the terms used in title 1 of the Act.

Section 102 subsection (a) directs the Secretary to conduct a study to determine the feasibility of constructing a water supply system for Chimayo.

Subsection (b) provides criteria that the Secretary shall consider when conducting the study.

Subsection (c) directs the Secretary to complete the study as soon as practicable but not later than three years after the date of enactment of this Act.

Subsection (d) provides that the Federal share of the cost shall be 75 percent.

Subsection (e) provides that the Secretary shall coordinate the activities of the Bureau of Reclamation, the Bureau of Land Manage-

ment, and the United States Geological Survey in assessing water resources on adjacent BLM land.

Subsection (f) directs the Secretary to submit to Congress a report on the results of the feasibility study.

Section 103 subsection (a) authorizes the Secretary to provide emergency water supply assistance to Chimayo.

Subsection (b) lists the activities the Secretary may undertake to provide emergency water assistance.

Subsection (c) provides that the Federal share of the cost shall be 75 percent.

Section 104 subsection (a) authorizes to be appropriated \$2,000,000 for the Chimayo water supply feasibility study and \$3,000,000 for emergency water assistance for fiscal years 2005 through 2009.

Subsection (b) prohibits funds made available for the feasibility study from being spent on construction.

Section 201 defines the terms used in title 2 of the Act.

Section 202 subsection (a) directs the Secretary to provide financial assistance to the city of Espanola, New Mexico for construction of a water filtration facility.

Subsection (b) provides that the Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos for water infrastructure as a component of the facility.

Subsection (c) provides that the Federal cost share for the filtration facility shall not exceed 25 percent.

Subsection (d) prohibits funds made available for the filtration facility from being used for operation and maintenance.

Section 203 authorizes to be appropriated for the filtration facility \$3,000,000 for fiscal years 2005 through 2009.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2511, the Chimayo Water Supply System and Espanola Filtration Facility Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 2511—Chimayo Water Supply System and Espanola Filtrations Facility Act of 2004

Summary: S. 2511 would authorize the appropriation of \$2 million over the 2005–2008 period for a water supply feasibility study for the town of Chimayo, New Mexico. The bill also would author-

ize the appropriation of \$3 million over the 2005–2010 period for emergency water supply development assistance in the town of Chimayo and the Santa Cruz River Valley. For both the study and the development assistance, the bill would authorize the Secretary of the Interior to pay 75 percent of the total project costs. Finally, S. 2511 would authorize the appropriation of \$3 million over the 2005–2009 period for a new water filtration facility in the city of Espanola, New Mexico. This bill would limit the federal share of the cost of constructing this facility to 25 percent.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$8 million over the 2005–2009 period. Enacting S. 2511 would not affect direct spending or revenues.

S. 2511 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The communities participating in the feasibility study and the water filtration project would incur costs as a result of matching requirements in the bill, but those costs would be incurred voluntarily. Those communities would benefit from the bill’s enactment.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2511 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). For this estimate, CBO assumes that S. 2511 will be enacted near the end of 2004. Based on historical spending patterns of similar projects, CBO estimates that implementing this bill would cost \$8 million over the 2005–2009 period.

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated authorization level	2	2	2	1	1
Estimated outlays	1	2	2	2	1

Intergovernmental and private-sector impact: S. 2511 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Karen Raupp.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2511. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2511.

EXECUTIVE COMMUNICATIONS

On June 16, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 2511. These reports had not been received at the time the report on S. 2511 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF JOHN W. KEYS III, COMMISSIONER, BUREAU
OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman, my name is John W. Keys III, Commissioner of Reclamation. I am pleased to be here today to present the views of the Department of the Interior (Department) regarding S. 2511, which would authorize a feasibility study for a Chimayo water supply system, and for planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico.

We share the views of the sponsor of this bill, Senator Domenici, regarding the importance of safe and reliable water supplies for cities, towns, and villages. The goals of the bill are commendable. While the Administration cannot support S. 2511 in its current form, we do think that it points out the urgency for Congress to enact rural water legislation now pending before the Senate. Both the Espanola and Chimayo communities may directly benefit from establishment of a systematic rural water program within Reclamation.

Rural water legislation would provide Reclamation with authority and guidelines to assist rural communities as they develop proposals for rural water solutions based on sound economics and best practices. Among three separate versions of rural water legislation now pending before the U.S. Senate, there is bi-partisan, interbranch consensus that the federal cost share should not exceed 50% for planning on rural water projects, at least until a capability-to-pay analysis that is consistently utilized indicates that a different cost-share is more equitable.

The rural water legislation would provide a mechanism for Reclamation and the communities to calculate that capability to pay for both construction and operation and maintenance. This helps in two ways. Reclamation and Congress will be able to identify fair construction cost-sharing requirements, and local sponsors will be able to objectively assess whether they will have the resources to properly operate and maintain projects constructed under the program.

By contrast, Title I of S. 2511 provides that any assistance or grants for Chimayo would be made on a non-reimbursable basis, and with only a 25 percent local cost-sharing requirement.

Title II of the bill directs the Secretary of the Interior, acting through the Bureau of Reclamation to provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility.

Reclamation has already provided financial assistance of about \$400,000 to the City of Espanola to perform a feasibility study, including environmental reviews under the National Environmental Policy Act. However, Reclamation has not yet received the feasibility study from the City of Espanola required under Section 1604 for review and acceptance. We believe this is a critical step that should precede construction authorization of the proposed filtration facility for three reasons: (1) Reclamation has not yet reviewed the feasibility study for adequacy; (2) the feasibility report never contemplated providing water to Chimayo; and (3) the Espanola feasibility study may need to be expanded to include these additional concerns.

Until these questions are resolved, construction authorization is not appropriate. Reclamation believes that after reviewing the feasibility study provided by Espanola, we would be in a far better position to help shape legislation to authorize construction. Furthermore, regarding the Chimayo project, with which we are only minimally familiar, the needs of the Community may be better met by one of the other numerous Federal rural water programs.

Thank you, Madam Chairman, for the opportunity to present this testimony. I will be pleased to answer questions you and other members of the subcommittee might have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2511, as ordered reported.